

State Board of Land Commissioners  
December 12, 2006  
Regular Agenda

SUBJECT

Unclaimed property legislation

BACKGROUND

With help from the Attorney General's office and the Tax Commission, EFIB staff discovered that the current statute for distributing property escheated to the State of Idaho under the Uniform Probate Code appears to violate requirements found in Art. 9, § 4 of the Idaho Constitution. That section requires that "all estates and distributive shares of estates that may escheat to the state" of Idaho and "all unclaimed shares and dividends of any corporation incorporated under the laws of the state" be deposited in the "Public School Permanent Endowment Fund." Currently, state statute requires the State Tax Commission to distribute these funds to the General Fund.

DISCUSSION

The Tax Commission has drafted legislation to allow the appropriate unclaimed property to flow to the Public School Fund beginning July 1, 2007. It has been reviewed and endorsed by the EFIB.

A second piece of legislation will be required to recover amounts already paid to the General Fund, which consist of \$351,000 in escheated estates. This amount does not include interest. The amount of unclaimed stock and dividends is immaterial.

RECOMMENDATION

Endorse the attached legislation and a General Fund appropriation of \$351,000 to the Public School Permanent Endowment Fund.

BOARD ACTION

A motion was made by Controller Johnson to adopt the recommendation of the Endowment Fund Investment Board. Attorney General Wasden seconded the motion. The motion carried on a vote of 4-0, with Governor Risch being absent for this vote.

ATTACHMENT

Proposed legislation



AN ACT

RELATING TO ESCHEATED AND UNCLAIMED PROPERTY; AMENDING SECTION 14-114, IDAHO CODE, TO REQUIRE THAT PROPERTY FROM AN ESTATE WITH NO HEIRS OR OTHER CLAIMANTS SHALL BE PAID TO THE PUBLIC SCHOOL ENDOWMENT FUND; AMENDING SECTION 15-3-914, IDAHO CODE, TO REQUIRE THAT PROPERTY FROM AN ESTATE IN WHICH AN HEIR OR CLAIMANT CANNOT BE FOUND SHALL AFTER APPROXIMATELY FIVE YEARS BE PAID TO THE PUBLIC SCHOOL ENDOWMENT FUND; AMENDING SECTION 14-523, IDAHO CODE, TO PROVIDED FOR DISTRIBUTION OF FUNDS RECEIVED FOR AS UNCLAIMED DIVIDENDS AND INTEREST PAID BY IDAHO CORPORATIONS TO THE PUBLIC SCHOOL ENDOWMENT FUND, TO PROVIDE FOR RECAPTURE OF SUCH FUNDS AND ESCHEATS FROM THE PUBLIC SCHOOL EARNINGS RESERVE FUND IF CERTAIN CIRCUMSTANCES OCCUR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 14-522, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO CORRECT CODIFIER'S ERRORS.

Be It Enacted By the Legislature of the State of Idaho:

SECTION 1. That Section 14-113, Idaho Code, be, and the same is hereby amended to read as follows:

14-113. UNCLAIMED MONEYS -- PAYMENT INTO ~~STATE TREASURY~~ PUBLIC SCHOOL PERMANENT ENDOWMENT FUND -- ESCHEAT. After a final settlement of the affairs of any estate, if there be no heirs or other claimants thereof, the administrator must pay into the state tax commission any and all moneys and effects ~~reported as unclaimed property as required by section 14-517, Idaho Code, and the procedure for distribution of abandoned property outlined in the unclaimed property act shall be followed~~ which shall accrue and be transferred to the public school permanent endowment fund created pursuant to section 4, Article IX, of the constitution of the state of Idaho.

SECTION 2. That Section 15-3-914, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-914. DISPOSITION OF UNCLAIMED ASSETS. If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to his trustee if one has been appointed; or, if no trustee has been appointed, shall file the report of abandoned property required by section 14-517, Idaho Code, and proceed to dispose of the property in the manner set forth in the "unclaimed property act," provided, however, that in the event no person appears to claim such

property within eighteen hundred and twenty-seven (1827) days (approximately five (5) years) from the date of the appointment of the personal representative, the moneys or property so deposited shall accrue and be ~~set over~~ transferred to the ~~general account~~ public school permanent endowment fund created pursuant to section 4, Article IX, of the constitution of the state of Idaho

SECTION 3. That Section 14-523, Idaho Code, be, and the same is hereby amended to read as follows:

14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, shall be deposited in the unclaimed property account.

(2) An amount equal to the funds received from unclaimed shares and dividends of any corporation incorporated under the laws of the state shall be transferred from the unclaimed property account to the public school endowment fund created pursuant to section 4, Article IX, of the constitution of the Idaho. In the event that any funds are required to refund any funds deposited in the public school endowment fund under this section or under sections 14-113, or 15-3-914, Idaho Code, the state tax commission shall offset amount of such refund against future transfers to the public school endowment fund. In the event that in one (1) fiscal year there are insufficient amounts to effect the offset, the balance shall be recaptured from the public school earnings reserve fund established under 33-902A, Idaho Code.

(3) All other money in the unclaimed property account is hereby continuously appropriated to the state tax commission, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the state tax commission under the provisions of this chapter.

(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.

(c) For payment of the cost of appraisals incurred by the state tax commission covering property held in the name of the account.

(d) For payment of the cost incurred by the state tax commission for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific

property or any specific funds which were delivered or paid to the state tax commission, or which arose from complying with this chapter with respect to such property or funds.

(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.

(g) For transfer to the general ~~account~~ fund as provided in subsection (~~34~~) of this section.

(h) For transfer to the inheritance tax account of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(~~34~~) At the end of each month, or more often, if it deems it advisable, the state tax commission shall transfer all money in the unclaimed property ~~account~~ fund in excess of two hundred fifty thousand dollars (\$250,000) to the general ~~account~~ fund. Within sixty (60) days of making this transfer, it shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to the property. The record shall be available for public inspection at all reasonable business hours.

(~~45~~) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, deposited in the general ~~account~~ fund shall be retained by the state of Idaho for the purposes of this section and administered pursuant to this section for a period of ten (10) years. At the end of such period, those moneys which have not been claimed and paid over or delivered as an allowed claim under this section and section 14-524, Idaho Code, shall become due and payable by escheat to the state of Idaho and become the property of the state of Idaho without further action on the part of the administrator.

SECTION 4. That Section 14-522, Idaho Code, be, and the same is hereby amended to read as follows:

14-522. PUBLIC SALE OF ABANDONED PROPERTY. (1) The administrator, within three (3) years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city affords in the judgment of the administrator, the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the

administrator, the bid is insufficient. If in the judgment of the administrator, the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least three (3) weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(2) Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale ~~of~~ on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(3) A person making a claim under this chapter is entitled to receive either the securities delivered to the administrator ~~to~~ by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to section 14-523(~~23~~), Idaho Code, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(4) The purchaser of property at any sale conducted by the administrator pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.